

2-28-07

Customer No. 33647
Confirmation No. 5101

Patent
Attorney Docket No. ITW7510.094

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Schneider, Joseph C.
Serial No. : 10/711,102
Filed : August 23, 2004
For : MULTI-POSITION HEAD PLASMA TORCH
Group Art No. : 3742
Examiner : Mark H. Paschall

CERTIFICATION UNDER 37 CFR 1.8(a) and 1.10

I hereby certify that, on the date shown below, this correspondence is being:

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37 CFR 1.8(a)

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Date: February 28, 2007

/Robyn L. Templin/
Signature

Commissioner for Patents
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PETITION/REQUEST FOR REFUND OF EXTENSION FEE

Dear Sir:

Applicant respectfully requests a refund in the amount of \$900.00 in the above-captioned patent application for the reasons set forth below.

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1 FC:1253 1020.00 CR

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On May 3, 2006, the Examiner mailed a Final Office Action to Applicant. Applicant filed a response thereto on June 23, 2006, within the 2-month period for reply identified under MPEP §706.07(f). An Advisory Action was then mailed by the Examiner to Applicant on October 20, 2006, which Applicant responded to via EFS-web on November 1, 2006 by filing a Notice of Appeal and Pre-Appeal Brief Conference Request. On November 9, 2006, Applicant received notice that the PTO had withdrawn funds in the amount of \$1020.00 from Applicant's deposit account to cover fees for a 3-month extension of time in regards to the response of November 1, 2006. Applicant, however, believes that this charging of a 3-month extension fee was in error and that only a 1-month extension fee was required. As set forth in MPEP §706.07(f), "if the reply is filed within 2 months of the date of the final Office action, the shortened statutory period will expire at 3 months from the date of the final rejection or on the date the advisory action is mailed, whichever is later. Thus, a variable reply period will be established." (emphasis added) As the Advisory Action was mailed on October 20, 2006, and Applicant had filed a prior response within 2 months of the date of the final Office Action, the statutory period for reply should have expired on October 20, 2006, the date the Advisory Action was mailed. Therefore, only a fee for a 1 month extension should have been required with the Notice of Appeal and Pre-Appeal Brief Conference Request mailed November 1, 2006, and only that amount needed to cover a 1 month extension should have been withdrawn from Applicant's deposit account.

Applicant therefore requests a refund of \$900.00, that being the difference between a fee for a 3 month extension and a 1 month extension. Applicant respectfully believes a refund is appropriate and hereby requests that a refund in the amount of \$900.00 be credited to Deposit Account 50-2623.

Respectfully submitted,

/Kevin R. Rosin/

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Dated: February 28, 2007
Attorney Docket No.: ITW7510.094

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